

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IN RE § **CASE NO. 21-30107-cgb**
PDG PRESTIGE, INC. § **CHAPTER 7**
DEBTOR. §

LEGALIST DIP GP, LLC §

PLAINTIFF, §

v. § **ADVERSARY NO. 23-03004-cgb**

PDG PRESTIGE, INC. §
and MICHAEL DIXSON, individually §

DEFENDANTS. §

**LEGALIST DIP GP, LLC'S UNOPPOSED MOTION
TO AMEND SCHEDULING ORDER**

Legalist DIP GP, LLC (“**Legalist**”), plaintiff in the above-captioned adversary proceeding (the “**Adversary Proceeding**”), hereby files this unopposed motion (the “**Motion**”) seeking a second amended scheduling order in the Adversary Proceeding. In support of the Motion, Legalist respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b). This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. The Bankruptcy Case

3. On February 15, 2021, PDG Prestige, Inc. (“**PDG Prestige**”) filed a voluntary petition under title 11, Chapter 11 of the United States Code (the “**Bankruptcy Code**”), thus initiating the “**Bankruptcy Case**.**”** Michael Dixson (“**Dixson**”) signed the petition on behalf of PDG Prestige as president.

4. During the course of the Bankruptcy Case, Legalist and its related entities provided debtor-in-possession financing to PDG Prestige. *See, e.g., Notice of Closing of Financing Transaction Between PDG Prestige, Inc. and Legalist* [Doc. No. 59].

5. During the course of the Bankruptcy Case, Legalist was represented by the firm Bell Nunnally & Martin LLP (“**Bell Nunnally**”).

6. On June 23, 2023, PDG Prestige filed a Motion to Convert Case to Chapter 7 [Doc. No. 264] (the “**Motion to Convert**”).

7. On July 13, 2023, the Court entered an order converting the Bankruptcy Case to Chapter 7 [Doc. No. 271]. Thereafter, Ronald Ingalls was appointed as Chapter 7 Trustee.

8. On December 15, 2023, Bell Nunnally filed a notice advising of its withdrawal as counsel for Legalist [Doc. No. 304].

9. On December 18, 2023, the undersigned counsel at the firms of Bluestone, P.C. and Ross, Smith & Binford, PC filed a notice of substitution of counsel for Legalist [Doc. No. 306].

B. The Adversary Proceeding

10. On June 16, 2023, Legalist filed a complaint against PDG Prestige and Dixson (collectively, the “**Defendants**”), thus initiating the Adversary Proceeding. Bell Nunnally appeared on behalf of the Legalist in the Adversary Proceeding.

11. On July 7, 2023, the Defendants filed a Motion to Dismiss Case [Doc. No. 6] (the “Motion to Dismiss”).

12. On July 28, 2023, Legalist filed a response to the Motion to Dismiss [Doc. No. 7].

13. On August 29, 2023, the Court entered an order denying the Motion to Dismiss [Doc. No. 9].

14. On September 19, 2023, the Defendants filed their answer [Doc. No. 11].

15. On September 21, 2023, the Court entered a Scheduling Order [Doc. No. 13].

16. Thereafter, Legalist determined to change counsel in both the Bankruptcy Case and the Adversary Proceeding. As such, on December 15, 2023, Bell Nunnally filed a notice of withdrawal as counsel [Doc. No. 18]. On December 18, 2023, the undersigned counsel at the firms of Bluestone, P.C. and Ross, Smith & Binford, PC filed a notice of substitution of counsel for Legalist [Doc. No. 19].

17. On December 20, 2023, with the consent of Defendants, Legalist moved this Court to extend the Scheduling Order. [Doc No. 20].

18. On December 20, 2023, this Court ordered the relief requested and extended the Scheduling Order. [Doc No. 21].

RELIEF REQUESTED AND BASES THEREFOR

19. Following retention as counsel for Legalist, the undersigned counsel acted expeditiously to file the appropriate substitution notices, and have continued their discovery efforts. Counsel for Legalist also contacted both counsel for the Defendants and the Chapter 7 Trustee to discuss the entry of an amended scheduling order. Legalist determined such an amended order was necessary in order to extend the date for file amended or supplemental pleadings, extend

discovery, and extend the deadline for dispositive motions. Legalist proposes an amended scheduling order (the “**Second Amended Scheduling Order**”) in the form attached to this Motion.

20. As set forth in the attached Certificate of Conference, counsel for the Defendants and the Chapter 7 Trustee each advised that they consent to the entry of the Second Amended Scheduling Order.

21. As such, by this Motion, Legalist seeks entry of the Second Amended Scheduling Order in the format attached hereto, or in a form substantially similar that meets with the Court’s applicable docket calendar.

22. Federal Rule of Civil Procedure 16(b), made applicable to this Adversary Proceeding pursuant to Bankruptcy Rule 7016, provides that a scheduling order may be modified on good cause shown. Legalist submits that cause exists to enter the Second Amended Scheduling Order due to the need to assess and prepare potential amended or supplemental pleadings, extend the discovery period, and the deadline for dispositive motions. In addition, as evidenced by the consent provided by the Defendants and the Chapter 7 Trustee, no party will be prejudiced by the entry of the Amended Scheduling Order.

WHEREFORE, Legalist requests that the Court (i) grant the relief sought herein; (ii) enter an order substantially in the form of the proposed Second Amended Scheduling Order; and (iii) grant Legalist such other and further relief as Legalist may show itself justly entitled.

Dated: February 14, 2024

Respectfully submitted,

/s/ M. Zachary Bluestone

M. Zachary Bluestone, Admitted *Pro Hac Vice*
D.C. Bar No. 994010
Bluestone, P.C.
1717 K Street NW, Suite 900
Washington, DC 20006
Phone: 202-655-2250
Email: mzb@bluestonelaw.com

-and-

/s/ Jason Binford

Jason Binford
State Bar No. 24045499
Ross, Smith & Binford, PC
2003 N. Lamar Blvd., Ste. 100
Austin, TX 78705
Phone: 512-351-4778
Email: jason.binford@rsbfir.com

Counsel to Legalist DIP GP, LLC

CERTIFICATE OF CONFERENCE

I certify that, prior to filing this Motion, I contacted David Lutz, counsel for the Defendants and Ronald Ingalls, Chapter 7 Trustee regarding the relief sought herein. Mr. Lutz and Mr. Ingalls each advised that they approve of the form of the Amended Scheduling Order.

/s/ Jason Binford

Jason Binford

CERTIFICATE OF SERVICE

I certify that on February 14, 2024, I served or caused to be served the foregoing document via the Court's Electronic Case Filing System upon the parties listed below via the manner described.

/s/ Jason Binford

Jason Binford

Debtor:

PDG Prestige, Inc.
154 N Festival Dr., Ste. D
El Paso, TX 79912

Served via U.S. mail

Defendant:

Michael Dixson
12912 Hill Country Blvd., Bldg. F., Ste. 235
Austin, TX 78738
Served via U.S. mail

Defendants' Counsel:

David P. Lutz
P.O. Drawer
Las Cruces, NM 88004-183
Email: dplutz@qwestoffice.net
Served via ECF and E-Mail

Trustee:

Ronald E Ingalls
PO Box 2867
Fredericksburg, TX 78624-1927
Email: ingallstrustee@gmail.com
Served via ECF and E-Mail

United States Trustee:

P.O. 1539
San Antonio, TX 78295
Email: ustpregion07.sn.ecf@usdoj.gov
Served via ECF and E-Mail